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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,779	08/21/2001	Dieter Babutzka	DE920000034US1	6739

7590 07/22/2004

IBM Corporation  
Intellectual Property Law Department  
2455 South Road, M/S P386  
Poughkeepsie, NY 12601

EXAMINER

COURTENAY III, ST JOHN

ART UNIT	PAPER NUMBER
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2126

DATE MAILED: 07/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/933,779

Applicant(s)

BABUTZKA ET AL.

Examiner

St. John Courtenay III

Art Unit

2126

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

  
ST. JOHN COURTENAY III  
PRIMARY EXAMINER

### Detailed Action

1) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2) Claims 1- 3, 5, 6, 8, 10, 12-14 are rejected under 35 U.S.C. § 102(e) as being anticipated by **Horikiri et al.** (U.S. Patent 6,339,783).

#### As per independent claim 1:

**Horikiri** teaches a communication method in which a plurality of remote calls to at least one remote system application are issued by one or more requestor applications, the method comprising the steps of:

- receiving the remote calls from the one or more requestor applications in a remote function manager [e.g., see "Receiver 202" that receives the remote calls; see associated discussion col. 5, line 56] ;
- providing one or more connections to the at least one remote system application addressed by the calls [e.g., see "Message analyzer 204" and associated discussion col. 5, line 63] ; and

- dispatching each of the plurality of calls to a respective one of the one or more connections [e.g., see "remote procedure manager 210" and associated discussion col. 6, line 7] .

**As per dependent claim 2:**

**Horikiri** teaches the remote calls are remote function calls [col. 4, lines 48-50. i.e., "Functions executed by the remote procedure client"].

**As per dependent claim 3:**

**Horikiri** teaches the remote calls are remote procedure calls [col. 5, line 35].

**As per dependent claim 5:**

**Horikiri** teaches the respective one of the one or more connections is a best adapted connection of the one or more connections [see matching the query included in the parameter discussion, col. 6, lines 7-14].

**As per dependent claim 6:**

**Horikiri** teaches connecting via the respective one of the one or more connections to the remote application and processing the call [see operation of remote procedure manager 210, discussion beginning col. 6, line 15].

**As per dependent claim 8:**

**Horikiri** inherently teaches a single thread per connection is provided, as a thread is defined as a path of execution in a program, and at least one path of execution must be provided to implement the remote procedure call [see RPC discussion col. 4, lines 48-54].

**As per dependent claim 10:**

**Horikiri** teaches calls from a systems management system are processed [see operation of remote procedure manager 210, discussion beginning col. 6, line 15].

**As per dependent claim 12:**

**Horikiri** teaches a computer system having installed program means for performing the method of claim 1 [see operation of remote procedure manager 210, discussion beginning col. 6, line 15].

**As per dependent claim 13:**

**Horikiri** teaches a computer program comprising code portions adapted for performing the steps of the method of claim 1 when the program is loaded into a computer device [see operation of remote procedure manager 210, discussion beginning col. 6, line 15].

**As per dependent claim 14:**

**Horikiri** teaches a computer program product stored on a computer usable medium comprising computer readable program means for causing a computer to perform the method of claim 1 when the program product is executed on the computer [see the rejection of claim 1 above].

3) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4) Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Horikiri et al.** (U.S. Patent 6,339,783). in view of **Iwasaki** (U.S. Patent 6,381,641).

**As per dependent claim 4:**

**Horikiri** discloses the invention substantially as claimed, as discussed above.

However, **Horikiri** does not *explicitly* teach the following additional limitations:

**Iwasaki** discloses calls that specify traffic management data and use data, the method comprising the further step of providing at least a memory reference for the traffic management data and use data associated with each of the calls [e.g., see col. 4, lines 29-34: "A traffic parameter summation processor 222 performs summation for each of MIB groups based on the frame data received from the device driver 221 and stores the traffic information obtained by the summation operation onto a traffic information memory 223"].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to improve upon the system taught by **Horikiri** by implementing the improvements detailed above because it would provide **Horikiri's** system with the enhanced capability of network traffic management as a means to realize greater data throughput over a computer network.

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5) Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Horikiri et al.** (U.S. Patent 6,339,783) in view of **Williams et al.** (U.S. Patent 6,658,490).

**As per dependent claim 7:**

**Horikiri** discloses the invention substantially as claimed, as discussed above.

However, **Horikiri** does not *explicitly* teach the following additional limitations:

**Williams** discloses where the shared memory of a common machine is used for the steps of dispatching and connecting [e.g., see "shared memory" and "RPC" and associated discussion col. 5, lines 62-67].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to improve upon the system taught by **Horikiri** by implementing the improvements detailed above because it would provide **Horikiri's** system with the enhanced capability of a shared data area that is accessible to all the threads of execution.



6) Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Horikiri et al.** (U.S. Patent 6,339,783). in view of **Wang** et al. (U.S. Patent 6,708,223).

**As per dependent claim 9:**

**Horikiri** discloses the invention substantially as claimed, as discussed above.

However, **Horikiri** does not *explicitly* teach the following additional limitations:

**Wang** discloses the use of socket communication for communicating from the one or more requestor applications to the remote function manager [see col. 12, lines 50-52: "Rpc layer 188 can include Rpc security, Rpc thread management, Rpc socket connection management, and Rpc association management." ; see also col. 13, lines 10-14: "The present invention, therefore, contemplates removing the use of the Rpc IID and the attendant inefficiencies while maintaining the useful Rpc security, thread management, socket connection management, and association management"].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to improve upon the system taught by **Horikiri** by implementing the improvements detailed above because it would provide **Horikiri's** system with the enhanced capability of connection endpoints that typically specify the communication format, the type of communication, and the protocol used to control the communication between the client and the server processes.

7) Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Horikiri et al.** (U.S. Patent 6,339,783). in view of Todd et al. (U.S. Patent 6,643,682).

**As per dependent claim 11:**

**Horikiri** discloses the invention substantially as claimed, as discussed above.

However, **Horikiri** does not *explicitly* teach the following additional limitations:

**Todd** discloses that RPC calls to a stock exchange management system are processed [e.g, see "RPC" and "stock market quotes" discussion beginning, col. 2, lines 9-44].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to improve upon the system taught by **Horikiri** by implementing the improvements detailed above because it would provide **Horikiri's** system with the enhanced capability of publishing and delivering stock market data to subscribers.

8) **35 U.S.C. 101** reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, i.e., a "computer program" per se, that is properly accorded protection under copyright law.

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**Prior Art not relied upon:**

Please refer to the references listed on the attached PTO-892 which are not relied upon in the claim rejections detailed above.

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**How to Contact the Examiner:**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to St. John Courtenay III, J.D., M.B.A., whose telephone number is 703-308-5217. A voice mail service is also available at this number. The examiner can normally be reached on M - F 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, An Meng-AI who can be reached on 703-305-9678. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**All responses sent by U.S. Mail should be mailed to:**

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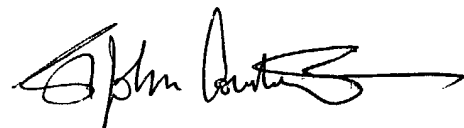
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- Any inquiry of a general nature or relating to the status of this application should be directed to the **TC 2100 Group receptionist: (703) 305-3900.**

**Please direct inquiries regarding fees, paper matching, and other issues not involving the Examiner to:**

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The Manual of Patent Examining Procedure (MPEP) is available online at: <http://www.uspto.gov/web/offices/pac/mpep/index.html>



ST. JOHN COURTENAY III  
PRIMARY EXAMINER